

AMENDED IN ASSEMBLY MAY 20, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2450

Introduced by Assembly Member Canciamilla

February 19, 2004

An act to amend Section 6609.1 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2450, as amended, Canciamilla. Sexually violent predators: notice.

Existing law requires the State Department of Mental Health to notify local law enforcement officials when it makes a recommendation to the court for community outpatient treatment for any person committed as a sexually violent predator, or when it is aware that such a person has petitioned a court for release to the community.

This bill would, in addition, require notice to be given when the community placement is proposed by the court. This bill would require the notice to include, among other things, the date, place, and time of the court hearing, would authorize the local agencies to provide written comment to the department and the court, would require the department to ~~respond to those comments~~ *issue a written statement*, and would require the court to consider those comments and ~~responses~~ *statements*. This bill would delete the prohibition against notice being given after the release date.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 6609.1 of the Welfare and Institutions Code is amended to read:

6609.1. (a) (1) When the State Department of Mental Health makes a recommendation to the court for community outpatient treatment for any person committed as a sexually violent predator, or when a person who is committed as a sexually violent predator pursuant to this article has petitioned a court pursuant to Section 6608 for conditional release under supervision and treatment in the community pursuant to a conditional release program, or has petitioned a court pursuant to Section 6608 for subsequent unconditional discharge, and the department is notified, or is aware, of the filing of the petition, the department shall notify the sheriff or chief of police, or both, the district attorney, or the county's designated counsel, that have jurisdiction over the following locations:

(A) The community in which the person may be released for community outpatient treatment.

(B) The community in which the person maintained his or her last legal residence as defined by Section 3003 of the Penal Code.

(C) The county that filed for the person's civil commitment pursuant to this article.

(2) The department shall also notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections, if the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code.

(3) The notice shall be given when the department makes a recommendation under subdivision (e) of Section 6608 or when a community placement is proposed by the court.

(4) The notice shall be given at least 15 days prior to the department's submission of its recommendation to the court in those cases in which the department recommended community outpatient treatment, or in the case of a recommendation by someone other than the department, within 48 hours after becoming aware of the recommendation, whichever is later.

(5) The notice shall include all of the following information concerning each person committed as a sexually violent predator

1 who is proposed or is petitioning to receive outpatient care in a
2 conditional release program in that city or county:

3 (A) The name, proposed placement address, date of
4 commitment, county from which committed, proposed date of
5 placement in the conditional release program, fingerprints, and a
6 glossy photograph no smaller than 3 1/8 X 3 1/8 inches in size, or
7 clear copies of the fingerprints and photograph.

8 (B) The date, place, and time of the court hearing at which the
9 location of placement is to be considered and a proof of service
10 attesting to the notice's mailing in accordance with this
11 subdivision.

12 (b) Those agencies receiving the notice referred to in
13 *paragraphs (1) and (2) of subdivision (a)* may provide written
14 *combined and consolidated* comment to the department and the
15 court regarding the impending release, placement, location, and
16 conditions of release. The State Department of Mental Health shall
17 ~~respond in writing to each of~~ *issue a written statement to* the
18 commenting agencies and to the court within 10 days of receiving
19 the written comments with a determination as to whether to adjust
20 the release location or ~~conditions, documenting general terms and~~
21 *conditions*, and explaining the basis for its decision.

22 (c) The agencies' comments and department's ~~responses~~
23 *statements* shall be considered by the court which shall, based on
24 those comments and ~~responses~~ *statements*, approve, modify, or
25 reject the department's recommendation or proposal regarding the
26 community or specific address to which the person is scheduled to
27 be released or the conditions that shall apply to the release if the
28 court finds that the department's recommendation or proposal is
29 not appropriate.

30 (d) (1) When the State Department of Mental Health makes a
31 recommendation to pursue recommitment, makes a
32 recommendation not to pursue recommitment, or seeks a judicial
33 review of commitment status pursuant to subdivision (f) of Section
34 6605, of any person committed as a sexually violent predator, it
35 shall provide written notice of that action to the sheriff or chief of
36 police, or both, and to the district attorney, that have jurisdiction
37 over the following locations:

38 (A) The community in which the person maintained his or her
39 last legal residence as defined by Section 3003 of the Penal Code.

1 (B) The community in which the person will probably be
2 released, if recommending not to pursue recommitment.

3 (C) The county that filed for the person's civil commitment
4 pursuant to this article.

5 (2) The State Department of Mental Health shall also notify the
6 Sexually Violent Predator Parole Coordinator of the Department
7 of Corrections, if the person is otherwise subject to parole pursuant
8 to Article 1 (commencing with Section 3000) of Chapter 8 of Title
9 1 of Part 3 of the Penal Code. The notice shall be made at least 15
10 days prior to the department's submission of its recommendation
11 to the court.

12 (3) Those agencies receiving the notice referred to in this
13 subdivision shall have 15 days from receipt of the notice to provide
14 written comment to the department regarding the impending
15 release. Those comments shall be considered by the department,
16 which may modify its decision regarding the community in which
17 the person is scheduled to be released, based on those comments.

18 (e) (1) If the court orders the release of a sexually violent
19 predator, the court shall notify the Sexually Violent Predator
20 Parole Coordinator of the Department of Corrections. The
21 Department of Corrections shall notify the State Department of
22 Mental Health, the sheriff or chief of police, or both, and the
23 district attorney, that have jurisdiction over the following
24 locations:

25 (A) The community in which the person is to be released.

26 (B) The community in which the person maintained his or her
27 last legal residence as defined in Section 3003 of the Penal Code.

28 (2) The Department of Corrections shall make the notifications
29 required by this subdivision regardless of whether the person
30 released will be serving a term of parole after release by the court.

31 (f) If the person is otherwise subject to parole pursuant to
32 Article 1 (commencing with Section 300) of Chapter 8 of Title 1
33 of Part 3 of the Penal Code, to allow adequate time for the
34 Department of Corrections to make appropriate parole
35 arrangements upon release of the person, the person shall remain
36 in physical custody for a period not to exceed 72 hours or until
37 parole arrangements are made by the Sexually Violent Predator
38 Parole Coordinator of the Department of Corrections, whichever
39 is sooner. To facilitate timely parole arrangements, notification to
40 the Sexually Violent Predator Parole Coordinator of the

1 Department of Corrections of the pending release shall be made by
2 telephone or facsimile and, to the extent possible, notice of the
3 possible release shall be made in advance of the proceeding or
4 decision determining whether to release the person.

5 (g) The notice required by this section shall be made whether
6 or not a request has been made pursuant to Section 6609.

7 (h) The time limits imposed by this section are not applicable
8 when the release date of a sexually violent predator has been
9 advanced by a judicial or administrative process or procedure that
10 could not have reasonably been anticipated by the State
11 Department of Mental Health and where, as the result of the time
12 adjustments, there is less than 30 days remaining on the
13 commitment before the inmate's release, but notice shall be given
14 as soon as practicable.

15 (i) The provisions of this section are severable. If any provision
16 of this section or its application is held invalid, that invalidity shall
17 not affect other provisions or applications that can be given effect
18 without the invalid provision or application.

